

REMARKS

Claims 82-109 are pending in the subject application.

Restriction Requirement

The Examiner has required restriction under 35 U.S.C. §§121 and 372 between the following two groups of inventions:

- I. Claims 82-85, 88-93 and 100-104, drawn to a method of treating mood or anxiety disorders; and
- II. Claims 86-87, 94-99 and 105-109, drawn to a composition.

In reply, applicant elects, with traverse, the invention identified by the Examiner as Group II, i.e. Claims 86-87, 94-99 and 105-109, drawn to a composition.

The Examiner maintains that Group I and Group II are not so linked as to provide a single general inventive concept in that Dodman (U.S. Patent No. 5,762,960) would anticipate Claim 86.

Applicant respectfully maintains that Dodman does not anticipate the present claims. Applicant notes that Dodman relates to a veterinary method for clinically modifying the behavior of dogs exhibiting canine affective aggression using preferential/discriminatory serotonin reuptake inhibitors. In regard to Claim 86, applicant maintains that Dodman does not teach the combination of pipamperone and a selective serotonin, nor-adrenaline and dopamine re-uptake inhibitor for treating mood disorders or anxiety disorders and that Dodman does not teach pipamperone provided in a unitary dose of between 5 and 15 mg. Furthermore, at column 10, lines 27-33, Dodman indicates "It is explicitly stated and emphasized repeatedly in the French veterinary literature, however, that no anxiolytic substance should be given to a

Applicant: Erik Buntinx
Serial No.: 10/580,962
Filed: May 31, 2006
Page 10 of 12

domesticated animal-showing any form of overt aggression. The prohibition and warning is explicit: all anxiolytics or anxiolytic substances are strictly contraindicated for veterinary subjects who have shown aggressive behavior.”

Applicant would also like to direct the Examiner’s attention to related European Patent Application No. 04025035.9. Enclosed is a copy of a February 19, 2009 Decision to grant a European patent based on the application and of a October 13, 2008 Communication indicating that the Examining Division of the European Patent Office intends to grant a European patent on the basis of the application as attached to the Communication. The application was allowed with broad claims including compositions and uses of pipamperone and a SNDRI, SNRI or SSRI for treating a mood disorder or anxiety disorder.

Furthermore, applicant maintain that a search for one Group (I or II) would necessarily identify art pertinent to the other Group. Applicant respectfully points out that if a search and examination of multiple groups can be made without serious burden on the Examiner, the Examiner must examine the application on the merits, even though it includes claims to independent or distinct inventions (MPEP §803). Applicant maintains that it would not place an undue burden on the Examiner to examine both Groups I and II.

Reconsideration and rejoinder of Groups I and II are respectfully requested.

Election of Species Requirement

Applicant elects escitalopram (e.g., Claim 108).

The Examiner indicated that Claims 86, 94 and 105 of Group II are generic. In addition, applicant maintains that Claims 106 and 108 are readable on the elections.

Applicant: Erik Buntinx
Serial No.: 10/580,962
Filed: May 31, 2006
Page 11 of 12

Supplemental Information Disclosure Statement

This Supplemental Information Disclosure Statement is being filed to supplement the Information Disclosure Statements filed on February 27, 2008, November 26, 2007, August 22, 2007, April 12, 2007 and May 31, 2006 in connection with the above-identified application. In accordance with the duty of disclosure under 37 C.F.R. §1.56, applicant would like to direct the Examiner's attention to the references that are listed on the attached Form PTO/SB/08A-B (3 pages). A copy of each non-U.S. Patent Document is attached hereto.

Applicant is submitting the subject Supplemental Information Disclosure Statement pursuant to 37 C.F.R. §1.97(b)(3) before the mailing of a first Office Action on the merits. Accordingly, no fee is deemed necessary in connection with the filing of this Supplemental Information Disclosure Statement.

Status of U.S. Patent Family Members

Applicant would also like to advise the Examiner of the status of co-pending patent family members.

1. U.S. Patent Application No. 10/725,965. The claims have been subject to a restriction requirement. Office Actions on the merits of the application issued on January 23, 2008 and September 15, 2008.

2. U.S. Patent Application No. 10/752,423. The claims have been subject to a restriction requirement. Office Actions on the merits of the application issued on October 2, 2007, May 13, 2008 and February 19, 2009.

3. U.S. Patent Application No. 10/803,793. The claims have been subject to a restriction requirement. Office Actions on the merits of the application issued on May 3, 2007, October 19, 2007, September 2, 2008 and February 20, 2009.

4. U.S. Patent Application No. 10/984,683. The claims have been subject to a

Applicant: Erik Buntinx
Serial No.: 10/580,962
Filed: May 31, 2006
Page 12 of 12

restriction requirement. Office Actions on the merits of the application issued on August 10, 2007, February 22, 2008, and October 21, 2008.

CONCLUSIONS

No fee is deemed necessary in connection with the filing of this response. However, if any fee is required in connection with this submission or to maintain the pendency of the subject application, authorization is hereby given to charge the amount of any such fee to Deposit Account No. 01-1785.

Respectfully submitted,

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By



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